

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

FAN BAO, an individual; and ZICO
USA, INC., a California Corporation

Plaintiffs,

v.

WENZHOU HAOKE ELECTRIC
APPLIANCE CO., LTD., a Chinese
corporation; and WU XINGHONG, an
individual,

Defendants.

AND RELATED COUNTERCLAIMS

Case No. 8:22-cv-01885-JWH-JDE

**STIPULATED PROTECTIVE
ORDER**

[Note Changes by the Court to Conform
with the Local Rules and General
Orders of this Court]

Based on the Stipulation by Plaintiffs Fan Bao and Zico USA, Inc. and Defendants Wenzhou Haoke Electric Appliance Co., Ltd., Epeus Co. Ltd, and Wu Xinghong, including the Parties' representation that they anticipate that documents, testimony, or information containing or reflecting confidential, proprietary, trade secret, and/or commercially sensitive information are likely to be disclosed or produced during the course of discovery and/or disclosures in this case, under Rule 26(c) of the Federal Rules of Civil Procedure and for good cause shown, the Court finds and orders as follows ("Order" or "Protective Order").

1. PURPOSES AND LIMITATIONS

1.1 Protected Material designated under the terms of this Protective Order shall be used by a Receiving Party solely for this case, and shall not be used directly or indirectly for any other purpose whatsoever.

1.2 The Parties acknowledge that this Order does not confer blanket protections on all disclosures during discovery, or in the course of making initial or supplemental disclosures under Rule 26(a). Designations under this Order shall be made with care and shall not be made absent a good faith belief that the designated material satisfies the criteria set forth below. If it comes to a Producing Party's attention that designated material does not qualify for protection at all, or does not qualify for the level of protection initially asserted, the Producing Party must promptly notify all other Parties that it is withdrawing or changing the designation.

2. DEFINITIONS

2.1 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c).

2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well as their support staff).

2.4 Designated House Counsel: House Counsel who seek access to "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information in this matter.

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY".

1 2.6 Disclosure or Discovery Material: all items or information, regardless
2 of the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced
4 or generated in disclosures or responses to discovery in this matter.

5 2.7 Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation who (1) has been retained by a Party or its counsel to
7 serve as an expert witness or as a consultant in this action, (2) is not a past or
8 current employee of a Party or of a Party's competitor, and (3) at the time of
9 retention, is not anticipated to become an employee of a Party or of a Party's
10 competitor.

11 2.8 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
12 Information or Items: extremely sensitive "Confidential Information or Items,"
13 disclosure of which to another Party or Non-Party would create a substantial risk of
14 serious harm that could not be avoided by less restrictive means.

15 2.9 House Counsel: attorneys who are employees of a party to this action.
16 House Counsel does not include Outside Counsel of Record or any other outside
17 counsel.

18 2.10 Non-Party: any natural person, partnership, corporation, association,
19 or other legal entity not named as a Party to this action.

20 2.11 Outside Counsel of Record: attorneys who are not employees of a
21 party to this action but are retained to represent or advise a party to this action and
22 have appeared in this action on behalf of that party or are affiliated with a law firm
23 which has appeared on behalf of that party.

24 2.12 Party: any party to this action, including all of its officers, directors,
25 employees, consultants, retained experts, and Outside Counsel of Record (and their
26 support staffs).

27 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
28 Discovery Material in this action.

1 2.14 Professional Vendors: persons or entities that provide litigation
2 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
3 demonstrations, and organizing, storing, or retrieving data in any form or medium)
4 and their employees and subcontractors.

5 2.16 Protected Material: any Disclosure or Discovery Material that is
6 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –
7 ATTORNEYS’ EYES ONLY.”

8 2.17 Receiving Party: a Party that receives Disclosure or Discovery
9 Material from a Producing Party.

10 **3. SCOPE**

11 The protections conferred by this Stipulation and Order cover not only
12 Protected Material (as defined above), but also (1) any information copied or
13 extracted from Protected Material; (2) all copies, excerpts, summaries, or
14 compilations of Protected Material; and (3) any testimony, conversations, or
15 presentations by Parties or their Counsel that might reveal Protected Material.
16 However, the protections conferred by this Stipulation and Order do not cover the
17 following information: (a) any information that is in the public domain at the time
18 of disclosure to a Receiving Party or becomes part of the public domain after its
19 disclosure to a Receiving Party as a result of publication not involving a violation
20 of this Order, including becoming part of the public record through trial or
21 otherwise; and (b) any information known to the Receiving Party prior to the
22 disclosure or obtained by the Receiving Party after the disclosure from a source
23 who obtained the information lawfully and under no obligation of confidentiality to
24 the Designating Party. This Order does not in any extend to the use of Protected
25 Material in the context of any potentially case-dispositive hearing or at trial. Any
26 use of Protected Material at trial or such hearings shall be governed by a separate
27 order issued by the trial judge and other applicable authorities.
28

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material. Care must be taken in the designation of information or items for protection under this Order to specific material that qualifies under the appropriate standards. To the extent practical, the Designating Party shall designate only those portions of material that qualify – so that other portions of the material for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case development process or to impose unnecessary expenses and burdens on other parties) expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that Designating Party must promptly notify all other parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order or as otherwise stipulated or ordered, Disclosure or Discovery Material

1 that qualifies for protection under this Order must be clearly so designated before
2 the material is disclosed or produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic
5 documents, but excluding transcripts of depositions or other pretrial or trial
6 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
8 contains protected material. If only a portion or portions of the material on a page
9 qualifies for protection, the Producing Party also must clearly identify the
10 protected portion(s) (e.g., by making appropriate markings in the margins) and
11 must specify, for each portion, the level of protection being asserted.

12 A Party or Non-Party that makes original documents or materials available
13 for inspection need not designate them for protection until after the inspecting
14 Party has indicated which material it would like copied and produced. During the
15 inspection and before the designation, all of the material made available for
16 inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY.” After the inspecting Party has identified the documents it wants copied
18 and produced, the Producing Party must determine which documents, or portions
19 thereof, qualify for protection under this Order. Then, before producing the
20 specified documents, the Producing Party must affix the appropriate legend
21 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
22 ONLY” to each page that contains Protected Material. If only a portion or portions
23 of the material on a page qualifies for protection, the Producing Party also must
24 clearly identify the protected portion(s) (e.g., by making appropriate markings in
25 the margins) and must specify, for each portion, the level of protection being
26 asserted.

27 (b) for testimony given in deposition, that the Designating Party identify on
28 the record, before the close of the deposition, all protected testimony and specify

1 the level of protection being asserted. When it is impractical to identify separately
2 each portion of testimony that is entitled to protection and it appears that
3 substantial portions of the testimony may qualify for protection, the Designating
4 Party may invoke on the record (before the deposition, hearing, or other
5 proceeding is concluded) a right to have up to 21 days to identify the specific
6 portions of the testimony as to which protection is sought and to specify the level
7 of protection being asserted. Only those portions of the testimony that are
8 appropriately designated for protection within the 21 days shall be covered by the
9 provisions of this Stipulated Protective Order. Alternatively, a Designating Party
10 may specify, at the deposition or up to 21 days afterwards if that period is properly
11 invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or
12 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

13 Parties shall give the other parties notice if they reasonably expect a
14 deposition or other proceeding to include Protected Material so that the other
15 parties can ensure that only authorized individuals who have signed the
16 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those
17 proceedings. The use of a document as an exhibit at a deposition shall not in any
18 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
19 – ATTORNEYS’ EYES ONLY.”

20 Transcripts containing Protected Material shall have an obvious legend on
21 the title page that the transcript contains Protected Material, and the title page shall
22 be followed by a list of all pages (including line numbers as appropriate) that have
23 been designated as Protected Material and the level of protection being asserted by
24 the Designating Party. The Designating Party shall inform the court reporter of
25 these requirements. Any transcript that is prepared before the expiration of a 21-
26 day period for designation shall be treated during that period as if it had been
27 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its
28

entirety unless otherwise agreed. After the expiration of that period, the transcript shall be treated only as actually designated.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information or item is stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a portion or portions of the information or item warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s) and specify the level of protection being asserted.

5.3 Failures to Designate. If timely corrected, a failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time, subject to any operative Scheduling Order. Unless a prompt challenge to a Designating Party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37-1 et seq.

6.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint stipulation pursuant to Local Rule 37-2. The burden of persuasion in any such challenge shall be on the Designating Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and

1 burdens on other parties) may expose the Challenging Party to sanctions. Unless
 2 the Designating Party has waived the confidentiality designation by failing to file a
 3 motion to retain confidentiality as described above, all parties shall continue to
 4 afford the material in question the level of protection to which it is entitled under
 5 the Producing Party's designation until the court rules on the challenge.

6 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

7 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 8 disclosed or produced by another Party or by a Non-Party in connection with this
 9 case only for prosecuting, defending, or attempting to settle this litigation. Such
 10 Protected Material may be disclosed only to the categories of persons and under
 11 the conditions described in this Order. When the litigation has been terminated, a
 12 Receiving Party must comply with the provisions below (FINAL DISPOSITION).

13 Protected Material must be stored and maintained by a Receiving Party at a
 14 location and in a secure manner that ensures that access is limited to the persons
 15 authorized under this Order.

16 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
 17 otherwise ordered by the court or permitted in writing by the Designating Party, a
 18 Receiving Party may disclose any information or item designated
 19 "CONFIDENTIAL" only to:

20 (a) the Receiving Party's Outside Counsel of Record in this action, as well
 21 as employees of said Outside Counsel of Record to whom disclosure is reasonably
 22 necessary for this litigation and who have signed the "Acknowledgment and
 23 Agreement to Be Bound" that is attached hereto as Exhibit A;

24 (b) the officers, directors, and employees (including House Counsel) of the
 25 Receiving Party to whom disclosure is reasonably necessary for this litigation and
 26 who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);
 27
 28

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff, professional jury or trial consultants, and Professional Vendors to whom disclosure is reasonably necessary for this litigation;

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary, unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

(b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

1 (d) the court and its personnel;

2 (e) court reporters and their staff, professional jury or trial consultants, and
 3 Professional Vendors to whom disclosure is reasonably necessary for this
 4 litigation; and

5 (f) the author or recipient of a document containing the information or a
 6 custodian or other person who otherwise possessed or knew the information.

7 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
 8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to
 9 Designated House Counsel or Experts.

10 (a)(1) Unless otherwise ordered by the court or agreed to in writing by the
 11 Designating Party, a Party that seeks to disclose to Designated House Counsel any
 12 information or item that has been designated “HIGHLY CONFIDENTIAL –
 13 ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b) first must make a
 14 written request to the Designating Party that (1) sets forth the full name and city
 15 and state of residence of the Designated House Counsel, and (2) describes the
 16 Designated House Counsel’s current and reasonably foreseeable future primary job
 17 duties and responsibilities in sufficient detail to determine if House Counsel is
 18 involved, or may become involved, in any competitive decision-making.

19 (a)(2) Unless otherwise ordered by the court or agreed to in writing by the
 20 Designating Party, a Party that seeks to disclose to an Expert (as defined in this
 21 Order) any information or item that has been designated “HIGHLY
 22 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(c)
 23 first must make a written request to the Designating Party that (1) identifies the
 24 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 25 ONLY” information that the Receiving Party seeks permission to disclose to the
 26 Expert, (2) sets forth the full name and city and state of primary residence of the
 27 Expert, (3) attaches a copy of the Expert’s current resume, (4) identifies the
 28 Expert’s current employer(s), (5) identifies each person or entity from whom the

1 Expert has received compensation or funding for work in his or her areas of
2 expertise or to whom the expert has provided professional services, including in
3 connection with a litigation, at any time during the preceding five years, and (6)
4 identifies (by name and number of the case, filing date, and location of court) any
5 litigation in connection with which the Expert has offered expert testimony,
6 including through a declaration, report, or testimony at a deposition or trial, during
7 the preceding five years.

8 (b) A Party that makes a request and provides the information specified in
9 the preceding respective paragraphs may disclose the subject Protected Material to
10 the identified Designated House Counsel or Expert unless, within 14 days of
11 delivering the request, the Party receives a written objection from the Designating
12 Party. Any such objection must set forth in detail the grounds on which it is based.

13 (c) A Party that receives a timely written objection must meet and confer
14 with the Designating Party as required under Local Rule 37-1 to try to resolve the
15 matter by agreement within seven days of the written objection. If no agreement is
16 reached, the Party seeking to make the disclosure to Designated House Counsel or
17 the Expert must comply with the requirements of Local Rule 37-2, et seq. to seek
18 an order authorize the disclosure. The Joint Stipulation or other papers submitted in
19 support of such request must describe the circumstances with specificity, set forth
20 in detail the reasons why the disclosure to Designated House Counsel or the Expert
21 is reasonably necessary, assess the risk of harm that the disclosure would entail,
22 and suggest any additional means that could be used to reduce that risk, and must
23 be accompanied by one or more competent declaration(s) describing the parties'
24 efforts to resolve the matter by agreement and setting forth the reasons advanced
25 by the Designating Party for its refusal to approve the disclosure. In any such
26 proceeding, the Party opposing disclosure to Designated House Counsel or the
27 Expert shall bear the burden of proving that the risk of harm that the disclosure
28

1 would entail (under the safeguards proposed) outweighs the Receiving Party's
 2 need to disclose the Protected Material to its Designated House Counsel or Expert.

3 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED** 4 **IN OTHER LITIGATION**

5 If a Party is served with a subpoena or a court order issued in other litigation
 6 that compels disclosure of any information or items designated in this action as
 7 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
 8 ONLY" that Party must:

9 (a) promptly notify in writing the Designating Party. Such notification shall
 10 include a copy of the subpoena or court order;

11 (b) promptly notify in writing the party who caused the subpoena or order to
 12 issue in the other litigation that some or all of the material covered by the subpoena
 13 or order is subject to this Protective Order. Such notification shall include a copy
 14 of this Stipulated Protective Order; and

15 (c) cooperate with respect to all reasonable procedures sought to be pursued
 16 by the Designating Party whose Protected Material may be affected.

17 If the Designating Party timely seeks a protective order, the Party served
 18 with the subpoena or court order shall not produce any information designated in
 19 this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
 20 ATTORNEYS' EYES ONLY" before a determination by the court from which the
 21 subpoena or order issued, unless the Party has obtained the Designating Party's
 22 permission. The Designating Party shall bear the burden and expense of seeking
 23 protection in that court of its confidential material – and nothing in these
 24 provisions should be construed as authorizing or encouraging a Receiving Party in
 25 this action to disobey a lawful directive from another court.

26 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE** 27 **PRODUCED IN THIS LITIGATION**

28 (a) The terms of this Order are applicable to information produced by a
 Non-Party in this action and designated as "CONFIDENTIAL" or "HIGHLY

CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

1. promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;
2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and
3. make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10.UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective

Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Local Civil Rule 79-5 et seq. Protected

1 Material may only be filed under seal pursuant to a court order authorizing the
2 sealing of the specific Protected Material. If a Party's request to file Protected
3 Material under seal is denied by the court, then the Receiving Party may file the
4 information in the public record unless otherwise instructed by the court. There is a
5 strong presumption that the public has a right of access to judicial proceedings and
6 records in civil cases. In connection with non-dispositive motions, good cause must
7 be shown to support a filing under seal. See Kamakana v. City and County of
8 Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006); Phillips v. Gen. Motors Corp., 307
9 F.3d 1206, 1210-11 (9th Cir. 2002); Makar-Welbon v. Sony Electronics, Inc., 187
10 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders require good
11 cause showing), and a specific showing of good cause or compelling reasons with
12 proper evidentiary support and legal justification, must be made with respect to
13 Protected Material that a party seeks to file under seal. The parties' mere designation
14 of material under this Order does not— without the submission of competent
15 evidence by declaration, establishing that the material sought to be filed under seal
16 qualifies as confidential, privileged, or otherwise protectable—constitute good
17 cause. Further, if a party requests sealing related to a dispositive motion or trial, then
18 compelling reasons, not only good cause, for the sealing must be shown, and the
19 relief sought shall be narrowly tailored to serve the specific interest to be protected.
20 See Pintos v. Pacific Creditors Ass'n., 605 F.3d 665, 677-79 (9th Cir. 2010). For
21 each item or type of information, document, or thing sought to be filed or introduced
22 under seal, the party seeking protection must articulate compelling reasons,
23 supported by specific facts and legal justification, for the requested sealing order.
24 Again, competent evidence supporting the application to file documents under seal
25 must be provided by declaration. Any document that is not confidential, privileged,
26 or otherwise protectable in its entirety will not be filed under seal if the confidential
27 portions can be redacted. If documents can be redacted, then a redacted version for
28 public viewing, omitting only the confidential, privileged, or otherwise protectable

portions of the document, shall be filed. Any application that seeks to file documents under seal in their entirety should include an explanation of why redaction is not feasible.

13.FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in paragraph 4, each Receiving Party upon request of the Designating Party must either return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) confirms that the Receiving Party has either returned or destroyed all Protected Material received from the Designating Party and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: August 25, 2023


JOHN D. EARLY
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
 [print or type full address], declare under penalty of perjury that I have read in its entirety and
 understand the Stipulated Protective Order that was issued by the United States District Court for
 the Central District of California on August 25, 2023, in Case No. 8:22-cv-01885-JWH-JDE. I
 agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I
 understand and acknowledge that failure to so comply could expose me to sanctions and
 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner
 any information or item that is subject to this Stipulated Protective Order to any person or entity
 except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern
 District of California for the purpose of enforcing the terms of this Stipulated Protective Order,
 even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
 _____ [print or type full address and telephone
 number] as my California agent for service of process in connection with this action or any
 proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
 [printed name]

Signature: _____
 [signature]